

REMARKS

Claim 31 has been amended. No claims have been added or cancelled. Claims 1-15 and 31-44 are pending in the application. Reconsideration is respectfully requested in light of the following remarks.

Section 102(b) Rejection:

Claims 31-33, 37 and 38 were rejected under 35 U.S.C. § 102(b) as being disclosed by Mastering Excel 97 (hereinafter "Excel"). Applicant respectfully traverses the rejection of claims 31-33, 37 and 38 for at least the following reasons.

Regarding claim 31, Excel fails to disclose a processor configured to: select, for each of the one or more objects, one or more auxiliary rendering attributes corresponding to a level of rendering detail, wherein the processor is configured to select, based on the one or more non-positional attributes, the one or more auxiliary rendering attributes. The Examiner cites page 123 of Excel, referring to a user selecting font formatting for cells in spreadsheet. However, Excel fails to disclose selecting an auxiliary rendering attribute *based on* a non-positional attribute. The Examiner refers to the teachings in Excel regarding a user's ability to select both a font type and a font size. The Examiner equates selecting a font size with selecting an auxiliary rendering attributes and equates a font type with a non-positional attribute. However, the Excel reference does not teach anything regarding selecting a font size *based on* a font type. For example, Excel does not teach that a user selects, say, a 12-point font size, *based on* the Arial font type. In other words, the user's selection of font size in Excel is based on the user's desire for how large he wants the font to be, not on the type of font. For example, the fact that Arial font type is being used does not lead the user to select any particular size for that font. The user is free to whatever size he wants for the font. The selection of 8 point size or 10 point size is not in anyway based on the font type being Arial. Thus, Excel does not teach selecting an auxiliary rendering attribute *based on* a non-positional attribute. Note that according to claim 31, it is not the available choices of auxiliary rendering

attributes that are necessarily based on a non-positional attribute, but the *selection* of one or more auxiliary rendering attributes.

Furthermore, it is well known in the art that font sizes are not selected based on font types. For example, a 12-point font size may be selected regardless of the specific font type used. Nowhere does the Excel reference mention anything about selecting auxiliary rendering attributes (font sizes) based on non-positional attributes (font type). Instead, the Excel reference merely states, “[s]elect the font properties you want to apply and click on OK” (Excel, page 122, “Applying Font Formats”). Thus, the Excel reference clearly fails to disclose *selecting* auxiliary rendering attributes *based on* non-positional attributes.

Additionally, Excel fails to disclose *a processor configured to select* auxiliary attributes based on non-positional attributes. In fact, the whole point of the Examiner’s cited reference is to allow *users to select* font formats, including font size. Thus, the processor executing the user interface described in the Excel reference is not selecting a font size, which the Examiner equates to an auxiliary attribute. Instead, the processor is merely responding to a font size selection performed by the user.

In fact, Excel teaches away from the processor performing the selection since the whole point of the user interface in Excel is to give the user the power to make font selections instead of having the processor do it for him. While it has been found that automating a previously known manual process may be obvious (see, M.P.E.P. § 2144.04 III), automating the selection of font sizes in the Excel reference is not only non-obvious, it would make no sense. The user interface described in the Excel reference (i.e. “Format Cells” dialog box), and relied upon by the Examiner for the rejection of claim 31, is specifically designed to allow *the user* to select formatting characteristics, such as font size. Thus, modifying the Excel reference to have the processor, rather than the user, select a font size would not only render the Excel reference unsatisfactory for its intended purpose (i.e. allowing the user to select a font size), but would also change its basic principle of operation. As the Examiner should be aware, a proposed modification

cannot render the prior art unsatisfactory for its intended purpose nor can a proposed modification change the principle of operation of a reference (see, M.P.E.P. § 2143.01, paragraphs 11 and 13). Furthermore, modifying Excel so that the processor automatically selects font sizes would still not disclose selecting a font size, which the Examiner equates to an auxiliary attribute, *based on a font type*, which the examiner equates to a non-positional attribute.

Excel clearly fails to disclose each and every limitation of Applicant's claim 31, as required for a § 102(b) rejection. Thus, for at least the reasons presented above, the rejection of claim 31 is not supported by the prior art and removal thereof is respectfully requested.

Regarding claim 37, the Excel reference fails to disclose wherein one or more of the auxiliary rendering attributes is an indicator of whether or not to render text for the object. The Examiner cites page 137 of the Excel reference, referring to a user's ability to select specific text formats, such as number and currency. Specifically, the Examiner states, "if the category is 'text' then text is displayed, if the category is number, currency, then text is not displayed." However, the Examiner has misinterpreted the teachings of the Excel reference. Even when a user selects a number or currency format for a cell of spreadsheet, the resultant format is still displayed as text, i.e. alphanumeric characters. For example, selecting a numeric format with 2 decimal places, as displayed in Figure 5.4 of the Excel reference, still causes the resultant number to be displayed as text. The fact that such a numeric format is displayed as text is clearly shown in the "Sample" area of Figure 5.4 (i.e. "123456789.00"). Just because numeric characters are used to display numbers does not imply that they are not displayed using text. Selecting a numeric format for a spreadsheet cell (or other formats such as currency, date, time, etc) is not selecting whether or not to render text for the cell. As shown above, the resultant format will still be rendered as text, but may only include numeric characters (and punctuation marks) arranged in a particular format.

The Excel reference clearly does not anticipate claim 37. Therefore, the rejection of claim 37 is not supported by the prior art and removal thereof is respectfully requested.

Section 103(a) Rejection:

Claims 34 and 39-44 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Excel as applied to claim 31 above, and further in view of Official Notice. Applicant respectfully traverses the rejection of claims 34 and 39-44 for at least the reasons presented below.

Regarding claims 34 and 42, the Examiner takes official notice that “the art is replete with text effects of s[h]immering, sparkle text, marching black ants text and marching red ant text corresponding to animated fonts.” Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner’s taking of official notice. Applicant asserts that it is not well known in the prior art to select animation as an auxiliary rendering attribute based on one or more non-positional attributes as recited in claim 34. Claim 34 does not recite merely using animated text. Instead, claim 34 recites, in part, selecting one or more auxiliary rendering attributes based on one or more non-positional attributes, wherein one of the one or more auxiliary rendering attributes is animation. While the use of animation as a rendering attribute may be well known in other contexts, it is not well known to select animation as an auxiliary rendering attribute based on one or more non-positional attributes. Furthermore, as the Examiner should be aware, it is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record” as the principal evidence upon which a rejection is based (see, M.P.E.P. § 2144.03).

Pursuant to M.P.E.P. § 2144.03 Applicant asserts that “the examiner **must** provide documentary evidence” in the next Office action if the rejection of claims 34 and 42 are to be maintained. See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

Regarding claim 39, the Examiner takes official notice that “the art is replete with object inserted files effects of sounds corresponding to sound volume.” Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner’s taking of official notice. Applicant asserts that it was not well known in the prior art to select sound volume as an auxiliary rendering attribute based on one or more non-positional attributes as recited in claim 39. While the use of sound volume as a rendering attribute may be well known in other contexts, it is not well known in the prior art to select sound volume as an auxiliary rendering attribute based on one or more non-positional attributes.

Additionally, Applicant disagrees with the Examiner, and asserts that it would not be obvious to modify the Excel reference to apply fonts in combination with sound volume, as suggested by the Examiner. If fact, it would not make any sense to select a sound volume based on a font type, as suggested by the Examiner. The Examiner has not provided a proper motivation to combine the teachings of Excel with selecting sound volume as an auxiliary rendering attribute based on non-positional attributes. The Examiner stated motivation, “because it would produce additional effects as revealed by Official notice” amounts to nothing more than the use of hindsight in an attempt to build the Applicant’s invention piece-meal. Such hindsight analysis is clearly improper. “It is impermissible . . . simply to engage in a hindsight reconstruction of the claimed invention, using the applicant’s structure as a template and selecting elements from references to fill the gaps.” *In re Gorman*, 933 F.2d 982, 987 (Fed. Cir. 1991). That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination.

Furthermore, as the Examiner should be aware, it is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record” as the principal evidence upon which a rejection is based (see, M.P.E.P. § 2144.03). Pursuant to M.P.E.P. § 2144.03 Applicant asserts that “the examiner **must** provide documentary evidence” in the next Office action if the rejection of claim 39 is to be maintained. See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

Regarding claim 40, the Examiner takes official notice that “the art is replete with text effects of blinking background text corresponding to blink rate.” Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner’s taking of official notice.

Applicant asserts that it was not well known in the prior art to select blink rate as an auxiliary rendering attribute based on one or more non-positional attributes as recited in claim 40. Claim 40 does not recite blinking background text. Instead, claim 40 recites, in part, selecting one or more auxiliary rendering attributes based on one or more non-positional attributes, wherein one of the one or more auxiliary rendering attributes is *blink rate*. While the use of blink rate as a rendering attribute may be well known in other contexts, it is not well known in the prior art to select blink rate as an auxiliary rendering attribute based on one or more non-positional attributes. The Examiner has failed to provide any reference, or argument, regarding selecting *blink rate* as an auxiliary rendering reference. Furthermore, The Examiner has not provided a proper motivation to combine the teachings of Excel with selecting blink rate as an auxiliary rendering attribute based on non-positional attributes. The Examiner stated motivation, “because it would produce additional textual effects as revealed by Official notice” amounts to nothing more than the use of hindsight in an attempt to build the Applicant’s invention piece-meal. As noted above, such hindsight analysis is improper.

As the Examiner should be aware, it is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record” as the principal evidence upon which a rejection is based (see, M.P.E.P. § 2144.03). Pursuant to M.P.E.P. § 2144.03 Applicant asserts that “the examiner **must** provide documentary evidence” in the next Office action if the rejection of claim 40 is to be maintained. See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

Regarding claim 41, the Examiner takes official notice that “the art is replete with text effects of background blending text corresponding to background blending level.” Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner’s taking of official

notice. Applicant asserts that it was not well known in the prior art to select background blending level as an auxiliary rendering attribute based on one or more non-positional attributes as recited in claim 40. Claim 40 does not recite merely using a background blending level. Instead, claim 40 recites, in part, selecting one or more auxiliary rendering attributes based on one or more non-positional attributes, wherein one of the one or more auxiliary rendering attributes is background blending level. While the use of background blending level as a rendering attribute may be well known in other contexts, it is not well known in the prior art to select background blending level as an auxiliary rendering attribute based on one or more non-positional attributes. Additionally, the Examiner has not provided a proper motivation to combine the teachings of Excel with selecting background blending level as an auxiliary rendering attribute based on non-positional attributes. The Examiner stated motivation, “because it would produce additional effects as revealed by Official notice” amounts to nothing more than the use of hindsight in an attempt to build the Applicant’s invention piece-meal. As noted above, such hindsight analysis is improper.

Furthermore, as the Examiner should be aware, it is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record” as the principal evidence upon which a rejection is based (see, M.P.E.P. § 2144.03). Pursuant to M.P.E.P. § 2144.03 Applicant asserts that “the examiner **must** provide documentary evidence” in the next Office action if the rejection of claim 41 is to be maintained. See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

Regarding claim 43, Excel in view of the Examiner’s Official Notice fails to teach or suggest wherein the processor is configured to select one or more updated auxiliary rendering attributes corresponding to an updated level of rendering detail based on the updated data. The Examiner admits that Excel fails to teach claim 43, and relies solely upon taking Office Notice that “the art is replete with screen refresh effects corresponding to updating data.” Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner’s taking of official notice.

First of all, the Examiner has completely ignored the limitation of claim 43 reciting wherein the processor is configured to select one or more updated auxiliary rendering attributes corresponding to an updated level of rendering detail based on the updated data. The Examiner has only taken Official Notice regarding “screen refreshes corresponding to updating data.” Screen refreshes corresponding to updating data have nothing whatsoever to do with selecting updated auxiliary rendering attributes corresponding to an updated level of rendering detail based on updated data. Additionally, screen refresh effects corresponding to updating data may be well known in some contexts, but Applicant asserts that selecting updated auxiliary rendering attributes corresponding to an updated level of rendering detail based on the updated data is not well known in the prior art.

Furthermore, as the Examiner should be aware, it is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record” as the principal evidence upon which a rejection is based (see, M.P.E.P. § 2144.03). Pursuant to M.P.E.P. § 2144.03 Applicant asserts that “the examiner **must** provide documentary evidence” in the next Office action if the rejection of claim 43 is to be maintained. See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

Regarding claim 44, Excel in view of the Examiner’s Official Notice fails to teach or suggest wherein the processor is configured to select one or more updated auxiliary rendering attributes corresponding to an updated level of rendering detail based on the updated data. The Examiner admits that Excel fails to teach claim 43, and relies solely upon taking Office Notice that “the art is replete with screen refresh effects corresponding to updating data.” Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner’s taking of official notice.

Additionally, Applicant disagrees with the Examiner, and asserts that it would not be obvious to modify the Excel reference to apply fonts in combination with real-time

updating, as suggested by the Examiner. The Examiner has not provided a proper motivation to combine the teachings of Excel with real-time updating. The Examiner stated motivation, “because it would produce additional effects as revealed by Official notice” amounts to nothing more than hindsight in an attempt to build the Applicant invention piece-meal. Such hindsight analysis is clearly improper. “It is impermissible ... simply to engage in a hindsight reconstruction of the claimed invention, using the applicant’s structure as a template and selecting elements from references to fill the gaps.” *In re Gorman*, 933 F.2d 982, 987 (Fed. Cir. 1991) That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination.

Furthermore, as the Examiner should be aware, it is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record” as the principal evidence upon which a rejection is based (see, M.P.E.P. § 2144.03). Pursuant to M.P.E.P. § 2144.03 Applicant asserts that “the examiner **must** provide documentary evidence” in the next Office action if the rejection of claim 44 is to be maintained. See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

Claims 35 and 36 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Excel as applied to claim 31 above, and further in view of Warping and Morphing of Graphical Objects (hereinafter “Warping & Morphing”). Applicant respectfully traverses the rejection of claims 35 and 36 in light of the reasons presented above regarding claim 31, from which claims 35 and 36 depend.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION

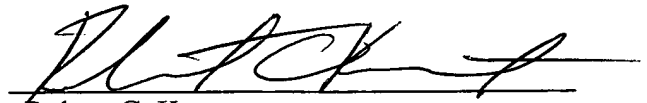
In light of the foregoing remarks, Applicant submits the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5181-80300/RCK.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Information Disclosure Statement

Respectfully submitted,


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